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AO 120 (Rev.3/04)

APR 23 2009

TO: Director of the U.S. Patent and Trademark Office P.O. Box 1450 Alexandria, VA 22313-1450	Mail Stop 8 U.S. PATENT & TRADEMARK OFFICE FILING OR DETERMINATION OF AN ACTION REGARDING A PATENT OR TRADEMARK	REPORT ON THE
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In Compliance with 35 U.S.C. § 290 and/or 15 U.S.C. § 1116 you are hereby advised
that a court action has been filed in the U.S. District Court San Diego on the following Patents or Trademarks:

DOCKET NO.	DATE FILED	U.S. DISTRICT COURT
08-CV-1721 DMS (WMc)	09/19/2008	Southern District of California
PLAINTIFF	DEFENDANT	
DJO, LLC	Medical Technology, Inc.	
PATENT OR TRADEMARK NO.	PATENT OR TRADEMARK NO.	PATENT OR TRADEMARK NO.
1 See complaint	5,865,841	6
2 5,480,561		7
3		8
4		9
5		10
		11
		12
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		14
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In the above-entitled case, the following patent(s)/trademark(s) have been included:

DATE INCLUDED	INCLUDED BY	
	<input type="checkbox"/> Amendment	<input type="checkbox"/> Answer
	<input type="checkbox"/> Cross Bill	<input type="checkbox"/> Other Pleading
PATENT OR TRADEMARK NO.	PATENT OR TRADEMARK NO.	PATENT OR TRADEMARK NO.
1	6	11
2	7	12
3	8	13
4	9	14
5	10	15

In the above-entitled case, the following decision has been rendered or judgment issued:

DECISION/JUDGMENT
<i>attached</i>

CLERK W. Samuel Hamrick, Jr.	(BY) DEPUTY CLERK <i>J. Hamrick</i>	DATE <i>4/23/09</i>
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ORIGINAL**FILED**

2008 SEP 19 PM 3:50

SIXTH US DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIABY KMT DEPUTY

1 LATHAM & WATKINS LLP
2 Mark A. Finkelstein (Bar #173851)
3 Joseph K. Liu (Bar #216227)
4 650 Town Center Drive, Suite 2000
5 Costa Mesa, California 92626-1925
6 Telephone: (714) 540-1235
7 Facsimile: (714) 755-8290
8 mark.finkelstein@lw.com
9
10 Attorneys for Plaintiff
11 DJO, LLC

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10 UNITED STATES DISTRICT COURT
11 SOUTHERN DISTRICT OF CALIFORNIA

12 DJO, LLC, a Delaware corporation,

13 Plaintiff,

14 v.
15 MEDICAL TECHNOLOGY, INC.,
16 dba BLEDSOE BRACE SYSTEMS, a
17 Texas corporation,
18
19 Defendant.

CASE NO.

'08 CV 1721 DMS WMC

COMPLAINT FOR PATENT
INFRINGEMENT

DEMAND FOR JURY TRIAL

20 Plaintiff DJO, LLC ("DJO"), for its Complaint against defendant
21 Medical Technology, Inc., dba Bledsoe Brace Systems ("Bledsoe"), hereby alleges
as follows:

22 JURISDICTION AND VENUE

23 1. This is an action for patent infringement arising under the
24 Patent Act of the United States, 35 U.S.C. §§ 271 and 281. This Court has subject
25 matter jurisdiction over the matters complained of under 28 U.S.C. §§ 1331 and
26 1338.

27 2. Venue is proper in this judicial district pursuant to 28 U.S.C. §§
28 1391(b) and (c), and 1400(b), in that DJO and Bledsoe reside in this district and

1 Bledsoe committed acts in this District that are alleged herein to constitute patent
 2 infringement.

3

4 THE PARTIES

5 3. DJO is a Delaware corporation having its principal place of
 6 business at 1430 Decision Street, Vista, California.

7 4. Bledsoe is a Texas corporation having its principal place of
 8 business at 2601 Pinewood Drive, Grand Prairie, Texas.

9 GENERAL BACKGROUND ALLEGATIONS

10 5. DJO is a leading global developer, manufacturer, and
 11 distributor of high-quality medical devices that provide solutions for
 12 musculoskeletal health, vascular health, and pain management, including "cold
 13 therapy" products, such as the Iceman® Cold Therapy System.

14 6. On February 2, 1999, United States Patent No. 5,865,841 (the
 15 "'841 patent"), entitled "Cold Therapy Apparatus," was duly and legally issued to
 16 Paul T. Kolen and Thomas D. Ford. DJO is the assignee and owner of the '841
 17 patent. A true and correct copy of the '841 patent is attached hereto as Exhibit A.

18 7. On November 9, 1999, United States Patent No. 5,980,561 (the
 19 "'561 patent"), entitled "Applying Thermal Therapy To Living Tissue," was duly
 20 and legally issued to Paul T. Kolen and Thomas D. Ford. DJO is the assignee and
 21 owner of the '561 patent. A true and correct copy of the '561 patent is attached
 22 hereto as Exhibit B.

23 FIRST CLAIM FOR RELIEF AGAINST BLEDSOE

24 (Patent Infringement — '841 patent)

25 8. DJO incorporates by reference the allegations contained within
 26 paragraphs 1 through 7 of this Complaint as if fully set forth herein.

27 9. On information and belief, after the '841 patent was issued,
 28 Bledsoe infringed, and continues to infringe, the '841 patent, both literally and

1 under the doctrine of equivalents, and both directly and indirectly, by making,
2 using, marketing, and selling its cold therapy products, including, but not limited
3 to, products marketed under the name "Cold Control."

4 10. DJO has suffered and, unless this Court issues an injunction,
5 will continue to suffer, irreparable harm for which there is no adequate remedy at
6 law as a result of Bledsoe's infringement of the '841 patent. Accordingly, DJO is
7 entitled to a preliminary and permanent injunction enjoining Bledsoe from its
8 infringing activities.

9 11. Bledsoe's infringement of the '841 patent has proximately
10 damaged DJO in an amount to be proven at the time of trial.

11 12. On information and belief, Bledsoe's past and continuing
12 infringement of the '841 patent has been, and is, deliberate and willful, thus
13 making this an exceptional case and entitling DJO to an award of treble damages
14 and attorneys' fees pursuant to 35 U.S.C. §§ 284 and 285.

SECOND CLAIM FOR RELIEF AGAINST BLEDSOE

(Patent Infringement — ‘561 patent)

17 13. DJO incorporates by reference the allegations contained within
18 paragraphs 1 through 12 of this Complaint as if fully set forth herein.

19 14. On information and belief, after the '561 patent was issued,
20 Bledsoe infringed, and continues to infringe, the '561 patent, both literally and
21 under the doctrine of equivalents, and both directly and indirectly, by making,
22 using, marketing, and selling its cold therapy products, including, but not limited
23 to, products marketed under the name "Cold Control."

24 15. DJO has suffered and, unless this Court issues an injunction,
25 will continue to suffer, irreparable harm for which there is no adequate remedy at
26 law as a result of Bledsoe's infringement of the '561 patent. Accordingly, DJO is
27 entitled to a preliminary and permanent injunction enjoining Bledsoe from its
28 infringing activities.

16. Bledsoe's infringement of the '561 patent has proximately damaged DJO in an amount to be proven at the time of trial.

17. On information and belief, Bledsoe's past and continuing infringement of the '561 patent has been, and is, deliberate and willful, thus making this an exceptional case and entitling DJO to an award of treble damages and attorneys' fees pursuant to 35 U.S.C. §§ 284 and 285.

PRAYER FOR RELIEF

WHEREFORE, DJO prays for Judgment as follows:

9 1. For a preliminary and permanent injunction restraining and
10 enjoining Bledsoe, and its officers, agents, servants, employees, and attorneys, and
11 any persons who are in active concert or participation with them, from directly or
12 indirectly infringing the '841 and '561 patents;

13 2. For an order requiring Bledsoe, and its officers, agents,
14 servants, employees, and attorneys, and any persons who are in active concert or
15 participation with them, to surrender to DJO all products that infringe the '841 and
16 '561 patents;

17 3. That DJO be awarded, under 35 U.S.C. § 284, damages
18 adequate to compensate it for Medical Technology, Inc., dba Bledsoe Brace
19 Systems' infringement of the '841 and '561 patents;

20 4. That all of DJO's damages be trebled in light of Bledsoe's
21 willful and deliberate infringement;

22 5. That this case be deemed exceptional under 35 U.S.C. § 285,
23 thereby entitling DJO to its reasonable attorneys' fees;

24 ||| 6. For costs of suit incurred herein;

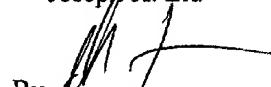
25 || 7. For prejudgment interest; and

1 8. For such other and further relief as this Court deems just and
2 proper.
3

4 Dated: September 19, 2008

LATHAM & WATKINS LLP

Mark A. Finkelstein
Joseph K. Liu

6 By _____
7 
8 Mark A. Finkelstein
9 Attorneys for Plaintiff
DJO LLC

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1 **JURY DEMAND**

2 A trial by jury is hereby demanded on all issues triable to a jury.

3 Dated: September 19, 2008

LATHAM & WATKINS LLP

Mark A. Finkelstein

Joseph K. Liu

5 By


Mark A. Finkelstein

6 Attorneys for Plaintiff DJO, LLC

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1 LATHAM & WATKINS LLP
2 Mark A. Finkelstein (Bar No. 173851)
3 Joseph K. Liu (Bar No. 216227)
4 650 Town Center Drive, 20th Floor
5 Costa Mesa, California 92626-1925
6 Telephone: (714) 540-1235
7 Facsimile: (714) 755-8290
8 mark.finkelstein@lw.com
9 joseph.liu@lw.com
10 Attorneys for Plaintiff
11 DJO, LLC
12

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14 UNITED STATES DISTRICT COURT
15 SOUTHERN DISTRICT OF CALIFORNIA
16

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18 DJO, LLC, a California corporation,
19 Plaintiff,
20 v.
21 MEDICAL TECHNOLOGY, INC.,
22 dba BLEDSOE BRACE SYSTEMS, a
23 Texas corporation,
24 Defendant.

25 CASE NO. 08CV1721 DMS (WMc)

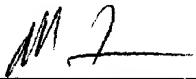
26 **DISMISSAL OF ENTIRE ACTION
27 WITH PREJUDICE**

28 Pursuant to Rule 41(a)(1), and in accordance with a settlement
agreement between the parties, plaintiff DJO, LLC hereby dismisses this entire
action *with prejudice*.

29 Dated: March 4, 2009

LATHAM & WATKINS LLP

30 By

31 
32 Mark A. Finkelstein
33 Attorneys for Plaintiff DJO, LLC

PROOF OF SERVICE

I am employed in the County of Orange, State of California. I am over the age of 18 years and not a party to this action. My business address is Latham & Watkins LLP, 650 Town Center Drive, 20th Floor, Costa Mesa, CA 92626-1925.

On March 4, 2009, I served the following document described as:

DISMISSAL OF ENTIRE ACTION WITH PREJUDICE

by serving a true copy of the above-described document in the following manner:

BY U.S. MAIL.

I am familiar with the office practice of Latham & Watkins LLP for collecting and processing documents for mailing with the United States Postal Service. Under that practice, documents are deposited with the Latham & Watkins LLP personnel responsible for depositing documents with the United States Postal Service; such documents are delivered to the United States Postal Service on that same day in the ordinary course of business, with postage thereon fully prepaid. I deposited in Latham & Watkins LLP' interoffice mail a sealed envelope or package containing the above-described document and addressed as set forth below in accordance with the office practice of Latham & Watkins LLP for collecting and processing documents for mailing with the United States Postal Service:

Kara E. F. Cenar
K&L Gates LLP
70 W. Madison Street, Suite 3100
Chicago, IL 60602-4207
Email: kara.cenar@klgates.com

I declare that I am employed in the office of a member of the Bar of, or
permitted to practice before, this Court at whose direction the service was made and
declare under penalty of perjury under the laws of the United States of America that the
foregoing is true and correct.

Executed on **March 4, 2009**, at Costa Mesa, California.

Cindy Berry